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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/346,719	07/02/1999	ANA GABRIELA ANAYA	09857/018001	2808

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EXAMINER

BASHORE, ALAIN L

ART UNIT PAPER NUMBER

3624

DATE MAILED: 06/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/346,719

Applicant(s)

ANAYA ET AL.

Examiner

Alain L. Bashore

Art Unit

3624

ML

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 44-63 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 44-63 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn. The after-final amendment filed 4-26-04 has been entered.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 44, 53-63 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 53-63 recite "system" which is vague and indefinite since a system may be one of several different statutory classes of invention (including a method or an apparatus). Applicant must indicate on the record what statutory class of invention the system claims belong to. For the purposes of this examination these claims are considered apparatus.

There is recited: "alert" (claims 44, 53, 55) and "publishing" (claims 44, 55, 61), both which are considered vague and indefinite since these terms have no meets and bounds.

The term "alert" refers to a warning. Since any dissemination of information is an alert, it is not clear what are the meets and bounds.

The term "publishing" refers to the issue and preparation to make public. Yet claim 61 indicates publishing is a "private" network, not to make public.

Claims 55-63 are rejected under 35 U.S.C. 101 as non-statutory. A computer-readable medium encoded with a data structure must positively recite in the body of the claim at least one recitation defining structural and functional interrelationships between the data structure and the computer software and hardware components (a useful, concrete and tangible result produced) that the computer uses the medium for. This permits the data structure's functionality to be realized, as more than a manipulation of an abstract idea [*In re Wamerdam*, 33 F.3d 1354; 31 USPQ2d 1754 (Fed. Cir. 1994)].

The recitation in the preamble of the independent claims recites that the instructions are "stored" not "embodied therein". The term storing may be considered software per se.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 44-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson in view of (Zusman et al and Kampe et al) in further view of Lange.

Wilson discloses market event data received by a plurality of feed lines (fig 1) which is then translated into common formats (col 2, lines 38-44; col 6, lines 61-67; col 7, lines 1-7; col 7, lines 39-55). Mechanisms (fig 1) receive the data after it has been processed by a gateway (1) which is then disseminated. A private network is disclosed (col 4, lines 5-16).

Wilson also discloses placing time data on incoming messages as a means of accurately identifying and flagging messages for later processing (col 6, lines 45 et seq) and to provide an platform compatibility to facilitate network communications over disparate network architectures and protocols (col 4, lines 1 et seq).

Wilson discloses market session data (col 5, lines 4-10), line (col 5, lines 60-67; col 6, lines 1-4), feed (col 4, lines 52-59), message type (col 6, lines 52-67), and original identification (col 5, lines 26-32).

Since the mechanisms to Wilson include processors that manipulate data, there are “engines” present. Since data is disseminated there is present “publishing”.

Since Wilson’s gateway describes processing constraints (col 7, lines 10-14) and use of a buffer (col 6, lines 5-11), there must be present data with FIFO constraints, thus market event data in a “queue”.

Wilson does not disclose:

- attaching timing data to the received message, including time extracted from the received message, and a stamp indicating receipt time at the receiver object and other data;

- activating a function to translate received message into market event data;
- receiving in an object or activation of objects to perform recited functions – i.e. the use of object oriented language (as now claimed in claims 44, 53, and 55);

- a stamp indicating a receipt time at the receiver function;
- time comparison of messages as recited in claims 45, 54, and 56;
- sequence number registration or updating;
- validation of market event data further including with: gap data, duplicate message discarding/tracking; and,
- fields within a market event object format.

Zusman et al discloses translating a portion of received messages into messages having a common format (col 6, lines 26-31).

Kampe et al discloses market event data as received messages (col 1, lines 45-48).

It would have been obvious to one with ordinary skill in the art to translate received messages into market event messages to Wilson because of what is taught by Kampe et al and Zusman et al.

Kampe et al teaches that received messages having market event data must be continuously updated in a synchronous and compatible fashion ( col 1, lines 20-67; col 2, lines 1-36). Zusman et al teaches accuracy and timeliness of financial data (col 2, lines 5-10) including standardization of message formats for delivery purposes (col 6, lines 25-42).

Zusman et al discloses a time stamp (col 9, line 8) for input messages, time comparison of blocks of messages (col 9, lines 19-22), sequence number registration and updating (col 10, line 11), validation of market event data with: gap data (col 9, lines 28-29), duplicate message discarding/tracking (col 9, lines 30-34).

It would have been obvious to one with ordinary skill in the art to include sequence number registration and updating because Zusman et al teaches assigning sequence numbers for the purposes of message validation (col 10, lines 9-11) and updating for purposes of data manipulation (col 15, lines 1-10).

It would have been obvious to one with ordinary skill in the art to include validation of market event data because Zusman et al teaches regional users require customized services (col 4, lines 15-16).

It would have been obvious to one with ordinary skill in the art to include validation of market event data with: gap data and duplicate message discarding/tracking because Zusman et al teaches such for purposes of message consistency requirements (col 9, line 18).

It would have been obvious to one with ordinary skill in the art to include a stamp for a receipt time to Wilson because Zusman et al teaches that a stamp is a conventional header for input messages (col 9, lines 8-9).

It would have been obvious to one with ordinary skill in the art to include time comparisons as recited in claims 45, 54, and 56 because Zusman et al teaches correction by requesting re-submission if data included with the message is inconsistent with protocol (col 9, lines 22-34).



Wilson in view of (Zusman et al and Kampe et al) does not further disclose:

receiving in an object or activation objects to perform functions – i.e. the use of object oriented language.

Lange discloses the use of object-oriented language (col 90, lines 35-67).

It would have been obvious to one with ordinary skill in the art to include object or activation objects to perform functions because of what is taught by Lange. Lange teaches as common for servers that receive market data to utilize object oriented techniques (col 90 , lines 42-44).

It would have been obvious to one with ordinary skill in the art to include fields within a market event object format because Kampe et al describes messages as inherently having information within fields (col 5, line 13).

### ***Response to Arguments***

6. Applicant's arguments filed 4-26-04 have been fully considered but are not persuasive.

While there is described an embodiment of applicant's invention for an alert engine, it is not clear if there is present a definition that defines the meets and bounds.

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***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alain L. Bashore whose telephone number is 703-308-1884. The examiner can normally be reached on about 7:00 am to 4:30 pm (Monday thru Thursday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 703-308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Alain L. Bashore